EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DEBORAH PRISE, et al.,

Plaintiffs,

vs.

ALDERWOODS GROUP, INC., et al.,

Defendants.

Civil Action

No. 06-1641

Transcript of proceedings on September 6, 2007, United States District Court, Pittsburgh, Pennsylvania, before Joy Flowers Conti, District Judge

APPEARANCES:

For the Plaintiffs: J. Nelson Thomas, Esq.
Patrick J. Solomon, Esq.
Charles H. Saul, Esq.
Liberty J. Weyandt, Esq.
Justin M. Cordello, Esq.

For the Defendants: Matthew W. Lampe, Esq.
Amy E. Dias, Esq.

Court Reporter: Richard T. Ford, RMR, CRR
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Proceedings recorded by mechanical stenography; transcript produced by computer-aided transcription

(Proceedings held in open court; September 6, 2007).

THE COURT: This is a hearing in Prise versus Alderwoods Group, Inc., Civil Action No. 06-1641. The hearing concerns a question as to whether or not notice should be sent to employees of Service Corporation International.

Will counsel please enter your appearance.

MR. THOMAS: Yes, Your Honor, Nelson Thomas, Dolin, Thomas & Solomon.

MR. LAMPE: Matt Lampe, Your Honor, Jones Day, on behalf of the Defendants.

THE COURT: I notice a number of other people are present here. Are the two that have just entered your appearance the ones who will make the argument?

MR. THOMAS: Yes, Your Honor.

THE COURT: Would the others just like to be on the record so we know who is present.

MR. SOLOMON: Patrick Solomon for the Plaintiffs.

MR. SAUL: Charles Saul of the firm Margolis Edelstein for the Plaintiffs.

MR. CORDELLO: Justin Cordello.

MS. WEYANDT: Liberty Weyandt from the firm Margolis Edelstein.

MS. DIAS: Amy Dias for the Defendant.

THE COURT: Thank you. The briefing of the parties is, quite frankly, like two ships passing in the night because

the views of the law are just dramatically different from each side. So I just want to take a moment and reset the framework for this.

The Plaintiffs are requesting that a collective action notification be sent as a result of alleged violations of the Fair Labor Standards Act, the FLSA. The subclass proposed as to the Defendant that is at issue here -- because one notification has already gone out with respect to the Alderwoods Group, Inc., I might be mistaken on that, there are some other issues coming up on that. The question concerns the ultimate parent of the organization, which is Service Corporation International.

The class would be current and former hourly employees of Defendants who were suffered or permitted to perform work by handling calls and other work related issues after hours, but not compensated by Defendant for such work performed after the workday off-site from the funeral home -- the on-call pay policy.

The Plaintiffs are asserting that the Defendant -- we will call the Defendant SCI for ease of reference -- is their employer under the FLSA. The Defendant says no, it is a mere holding company and has no employees.

The problem I had was that the Plaintiff in the briefing set forth a lot of factors which, if they were true, would implicate an employment/employer relationship, which is

a very broad concept for purposes of the Fair Labor Standards Act.

But Defendant has set forth affidavits, which have not been contradicted to this Court's knowledge, showing that those allegations are simply not true.

Just to give a preview, the definition of employer under the FLSA, as set forth in 29 United States Code, Section 203(d), provides that an employer includes any person acting directly or indirectly in the interest of an employer in relation to an employee.

The courts have to look at an economic reality test and a totality of the circumstances test that the courts look at, and the courts have noted that there's a broad definition, it's broader than what would normally be the case in a traditional common-law sense. Those cases are Rutherford Food Corp. versus McComb, 331 US 722, 1947; Zavala versus Wal-Mart Stores, Inc., 393 Fed Supp. 2d 295, District of New Jersey, 2005. There are a number of others that stand for that same proposition.

The cases -- and I have read all of the seminal Supreme Court cases that were decided, as well as the other cases cited by the Plaintiffs in this situation, and also the regulation which is set forth in 29 Code of Federal Regulations, Section 791, and I think it's (b) -- I have to get my copy of that. The one that has the applicability in

this case is (b)(3), but I did want to quote for purposes of the record the exact language of (b)(3), which I had printed. Can you reprint that for me?

THE LAW CLERK: I will.

THE COURT: Thank you.

I also read the cases that were cited in the WESTLAW version of the Code of Fed Regulations that are cited under that section. Quite frankly, the cases that are implicated here mainly deal with individuals who are shareholders or officers of a corporation. As the shareholder, they may have been the majority shareholder or controlling shareholder. The courts have found those individuals in certain circumstances to be employers.

But there was generally some affirmative conduct that was involved, direct involvement in the operations of the business such that the courts could find some relationship, more than just being a shareholder. That there was direction and control actually being exercised.

When I looked at the cases that the Plaintiff has cited, the cases of the Plaintiff generally dealt with situations where there was some affirmative action being taken by the person sought to be held as the employer.

For example, in the Alba versus Loncar case, which was 2004 WESTLAW 1144052, Northern District of Texas, May 20, 2004, the Court there was considering whether an

individual's control over the employees of a corporation were sufficient to warrant a finding of an employer/employee status.

The Court there found that there were certain managerial responsibilities and substantial control over the terms and conditions of the employment. So they were looking for operational control in some sense. I don't think it had to be complete, but it had to be substantial.

Indeed the seminal decision of the Supreme Court, and they all seem to be fairly old cases going back into the 1940s and the most recent being the 1973 decision of the Supreme Court in Falk versus Brennan, 414 US 190. In that case there was a partnership that was providing management services for a number of real estate apartment complexes, and the Supreme Court there found that even though the individuals may have been paid by the separate -- at issue may have been paid by the separate apartment complexes, the partnership could actually be an employer as well, and what they looked for was -- this is on Page 431 -- they looked at the extent of the managerial responsibility at each of the buildings, which gave that partnership substantial control of the terms and conditions of the work of the employees. So they were looking really to the actions.

When you look at the regulation that's been raised here, there were two things that I wanted to bring to bear

here. The first is that the Plaintiffs cite Section 791.2(a) for the proposition that there has to be some kind of a showing that they are completely disassociated. But if you read that phrase in context, what the entire sentence says is: If all the relevant facts establish that two or more employers are acting entirely independently of each other and are completely disassociated with respect to the employment of a particular employee who during the same work week performs work for more than one employer, each employer may disregard all work performed by the employee for the other employer.

So in (a) they are not dealing with a parent/subsidiary relationship we have here; they were talking about someone who works part-time for one entity in a week and part-time for someone else in a week.

The question is when can you lump those two employers together, and the Court in that circumstance -- I mean the regulation in that circumstance was looking for some kind of complete disassociation because of the nature of how the work was being performed during the same week. So I think you can't take that completely disassociated just out of context in terms of what was the concern being addressed in Section 791.2(a).

Then when you get to (b), because I think this is the one that is more directly relevant here, because what they're concerned with in (b) is a benefit. It is where the

employee performs work which simultaneously benefits two or more employers or works for two or more employers at different times during the work week, a joint employment generally -- relationship generally will be considered to exist in situations such as.

So at best what you have here is, arguably, performing work which will simultaneously benefit two entities because you could argue going up the chain that whoever is working at the lowest tier subsidiary, there could be some indirect benefit flowing up to the parent level.

Then when you get to subpart (1), it has to deal with if there is an agreement to share, and I don't think there is any issue here that there is any sharing of the employee.

The second aspect of that regulation is where one employer is acting directly or indirectly in the interest of the other employer in relation to the employee. And I think that's probably the management kind of services. If you are stepping in and providing management services and you're doing that in relation to the particular employer, maybe you could be caught up in the parameters of the regulation.

The final one, which is the only one I think that has some, arguably, applicability here, is (3), where the employers are not completely disassociated with respect to the employment of a particular employee. And I don't know what

completely disassociated means in this context, and it could mean that you're providing some services for one, some services to another.

But it goes on to say that: May be deemed to share control of the employee, directly or indirectly, by reason of the fact that one or more employer controls or is controlled by or is under common control with the other employer.

The cases that are cited there are the same kinds of cases that the Plaintiff was citing where there was some individual generally who was actually providing the hands-on management and was interfacing and making decisions, directs decisions, relevant to the particular employee or employees in question.

So these were not the cases where you have a parent company and a subsidiary, and that's the sole relation that you have, and you don't have the parent actually managing the business of human relations or anything else like that.

So that's why when you first read the Plaintiffs' brief, the Plaintiff is making all the arguments, they're providing human relations services, they're providing the benefits, they're providing policies, all of that type thing.

The response by the Defendant shown by affidavit said that was not the case. That there were other entities. So there may be other employers here who may be appropriate to be brought in, but it doesn't appear that it would be SCI if

SCI as the corporate board is not doing something overtly to be involved in the management or the operational control of the businesses.

So that's the problem that I see here for the Plaintiffs. So I will hear from the Plaintiffs first.

MR. THOMAS: Your Honor, you -- I understand your position on that, and I don't think -- I will leave it be. I understand where you are coming out on that. I think that probably what makes the most sense is for us to, if the test is going to be focusing on the operational control, they have certainly listed those entities in their papers and we will either file a new complaint or amend this one to bring those in, and then we will tee up the issue on that score.

THE COURT: Right. One other thing I wanted to mention, when you look at the definition in Section 203(d) where it defines the person, and it says any person acting directly, so that in itself connotes there has to be some affirmative action. It can't be just totally passive.

There are a number of lower court decisions where you have just the pure parent/subsidiary relationship where the parent really is a pure holding company and has no operational functions of any kind. The lower courts that have considered this view that as not being an employer for purposes of this statute.

MR. THOMAS: That's fine. We can bring in those

individuals potentially and we will see where we go. But the operational people have been identified and the operational entities, and that may be a better approach, and we have that in their papers and I think that would be the next step.

THE COURT: So I will deny this motion. And I think also that would give me the grounds to grant the summary judgment at this stage without prejudice if you are going to continue to try -- are you going to continue to try to keep SCI in?

MR. THOMAS: Yes, Your Honor, and maybe I would make the motion now for leave to amend the complaint to add in the -- at least the entities they have identified in their papers, which are the SCI Eastern Market Support Center LLP, SCI Western Market Support Center, Houston Market Support Center, and the SCI Funeral and Cemetery Publishing -- or Purchasing Cooperative.

So we request that that be deferred until we make our motion to amend and motion for notice for those people. We may be adding in individuals or different entities, I don't know.

THE COURT: Because that seems to be what they are looking for. In all the cases -- and I did read the Defendants' cases and the Plaintiffs, and particularly the Supreme Court cases, and they were all looking for some kind of exercise of control, not just the mere power to control,

but somebody that was actually an entity or a person that was actually, you know, involved with the employee.

MR. THOMAS: And I think from their papers you have that there. They say these were the ones that did the HR functions, these are the ones that interfaced. If it is simply a question of putting in the new party that has that, we request leave to amend and put those in.

THE COURT: Okay. I will hear from the Defendant.

MR. LAMPE: Well, since the Court has decided to deny the motion, I am not going to speak to that.

I think the two issues that you want to hear from me on is, first of all, you raised the point about the summary judgment motion.

THE COURT: Right. I specifically said it wouldn't be argued today here. But in light of their statement that they're willing to -- or they want to amend the complaint, I just don't know if that should be denied without prejudice at this time because I don't know -- it is really difficult when you have serial summary judgments and that type of thing. So that for judicial economy would be my question where to go from here.

MR. LAMPE: The two named Plaintiffs, Prise and Rady, they never worked for SCI or even an affiliate of SCI. During the time that they were employed by Alderwoods, Alderwoods was a competitor.

THE COURT: So they would have to amend the complaint to bring in another Plaintiff too then.

MR. LAMPE: Right. We think as to SCI, the named Defendant in this case, these two named Plaintiffs couldn't possibly have a claim against them. You have already determined that SCI is not an employer, and even if it were --

THE COURT: At least they haven't presented anything to get the notification.

MR. LAMPE: Correct. But even if they were an employer, they certainly wouldn't be Ms. Prise and Rady's employer because those two people left Alderwoods before there was any association of any kind between Alderwoods and SCI. We think -- we do think it makes sense to dismiss SCI from the case. There certainly aren't any facts that would suggest the two named Plaintiffs could have any kind of a claim against them.

Then as to the request to amend the complaint, I think -- I would need to look to see whether we would have grounds in the law to oppose that. I know the rules on amendments are fairly liberal, but I am also sort of struck by the fact that we were together back in April and Mr. Thomas raised back then the fact that he needed to take some discovery to find out what the interrelationships were among these various corporate entities. We agreed to that, and they have taken no discovery. A half a year has now passed and it

seems to me that the time to investigate which corporate Defendants should be brought into the case was a half a year ago, not now. This case is coming up on a year old and we're talking about trying to bring two completely separate corporations into this lawsuit.

This class period, if you go back three years, to the vast majority of this class period, Alderwoods and SCI are competitors. There is no relationship at all. As of November of last year they became related. But there's no request for injunctive relief in this case. This is a damages case.

Again, I would want to research this and be able to formally respond, but I think our inclination would be it is too late to try to continue to dredge up some SCI entity to drag into this case which is an Alderwoods case.

THE COURT: If at the time -- I think what they are saying is if at the time in issue, unless you have some other Plaintiffs that come up later, their argument is that these Plaintiffs don't have anything to do with any SCI entity.

MR. THOMAS: Your Honor, that was addressed in our summary judgment papers, which is --

THE COURT: I haven't really spent a lot of time on that.

MR. THOMAS: Exactly. I was not prepared today to be dealing with that based on the Court's decision.

However, what we point out in those papers is there

is currently over 50 Plaintiffs in this case who are -- and actually substantially more -- who are SCI employees and who under --

THE COURT: I think what you need to address is whether you need additional -- you can amend to add Plaintiffs as well. But if they are not -- if they don't have the same basis, I mean, if this all happened under Alderwoods and SCI just inherited them because of their acquisition, they may have inherited the liabilities through the Alderwoods entity that they acquired and they may have to be indirectly financially responsible. But as a separate entity, maybe they don't have a role to play here.

MR. THOMAS: Actually, Your Honor, when I referred -- there is over 500 Plaintiffs in this lawsuit. Under the FLSA, they are actually party Plaintiffs, they actually become parties, so there is actually over 500 party Plaintiffs here. Over 50 of those are direct SCI employees. So I think that Mr. Lampe's point is not well-founded in terms of this. We do have over 50 SCI Plaintiffs.

That said, based on what I just heard, we will have to evaluate all of our options.

I guess another -- I too am concerned about -- I want to get this case moving forward.

THE COURT: Right.

MR. THOMAS: It may be easier for us, and we will

evaluate everything, I don't know what we conclude, we may conclude just simply filing another complaint against SCI and name these people officially, we may choose that. We may speak to Mr. Lampe to see if he consents. We may bring a motion to amend.

THE COURT: Is there any concern the same activity is still continuing?

MR. THOMAS: Yes, Your Honor, it is. Again, the statute of limitations of people is dropping off and we are very concerned about that. So, again, much like Mr. Lampe, I don't want to answer today not having done the research on the statute of limitations and the parties and the best course, but I think that really whether it's by -- this issue is not going to disappear, it is either going to be by separate complaint or motion to amend, we will get this teed up as soon as possible so we can get these employees -- and, you know, the Defendants, although they say they are concerned about the length of the case, they have knocked off a third of their liability by the length that has gone on already and we want to put that -- we want to put that to an end now. So we are going to move as quickly as we can so that these employees shouldn't be bearing the cost of what has --

THE COURT: So this motion will be denied on the notification for the reason that there wasn't sufficient evidence presented to the Court to implicate an

employer/employee relationship with SCI. And I will cite the standards of the Falk decision and -- there is a recent Maryland case, Glunt versus GES Exposition Services, Inc., 123 Fed Supp. 2d, 847, District of Maryland, 2000. There's a couple other decisions like this that are cited. Those are the lower courts I said that have considered this, just a simple parent/subsidiary relationship.

But if you wish to amend the complaint, you will file a motion to do that and it can be responded to in due course. If you want to meet and confer to try to expedite this, it isn't good for either party to have these issues languishing. So I think we need to move on from there so that the case can progress.

MR. THOMAS: Your Honor, we would like to get, once the motion is made, as expedited a schedule as possible to get that done. Procedurally how would you prefer us to request when we file the motion that there be --

THE COURT: Ask for an expedited hearing. File a separate motion asking for an expedited hearing and a shortened briefing schedule. The other side has to have an opportunity to respond. So if you ask for an expedited briefing schedule and an expedited hearing, I will see those as they come in.

MR. THOMAS: Thank you, Your Honor.

THE COURT: Okay. Anything further?

MR. LAMPE: Not from me, Your Honor, thank you.

THE COURT: Thank you all.

(Record closed).

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C E R T I F I C A T E

I, Richard T. Ford, certify that the foregoing is a correct transcript from the record of proceedings in the above-titled matter.

S/Richard T. Ford _____

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DEBORAH PRISE AND HEATHER RADY Plaintiffs, v. ALDERWOODS GROUP, INC., BURTON L. HIRSCH FUNERAL HOME, INC., H. P. BRANDT FUNERAL HOME, INC., H. SAMSON, INC., NEILL FUNERAL HOME, INC, & SERVICE CORPORATION INTERNATIONAL Defendants.	Civil Action No. 06-1470 Judge Joy Flowers Conti JURY TRIAL DEMANDED

MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT

NOW COME, the Plaintiffs, Deborah Prise and Heather Rady, by and through their attorneys, MARGOLIS EDELSTEIN, CHARLES H. SAUL, ESQUIRE and LIBERTY J. WEYANDT, ESQUIRE, and file the following Motion for Leave to File Second Amended Complaint and aver as follows:

1. This civil action was originally filed by Plaintiffs Prise and Rady on November 6, 2006, which sought relief against Defendants Alderwoods Group, Inc., Burton L. Hirsch Funeral Home, Inc., H. P. Brandt Funeral Home, Inc., H. Samson, Inc., Neill Funeral Home, Inc., under Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991, 42 U.S.C. §2000(e), *et. seq* ("Title VII") and the Equal Pay Act, 29 U.S.C. § 206 ("EPA").

2. Plaintiffs filed an Amended Complaint on February 23, 2007, in which Plaintiffs added Service Corporation Inc., as a Defendant in the case. Upon information and belief, Plaintiffs

averred that Alderwoods and SCI merged on or about November 28, 2006, via an "Agreement and Plan of Merger," dated April 2, 2006 (see Exhibit 1), which occurred after the filing of Plaintiffs' original Complaint.

3. It was Plaintiffs' intention to include SCI as a Defendant under a theory of successor liability. However, Defendants interpreted Plaintiffs' Amended Complaint differently, and believed that Plaintiffs' claimed that SCI was the actual employer of Plaintiffs during the time period of the alleged incidents.

4. Defendants' interpretations of what Plaintiffs' Complaint alleges are hypo-technical and exaggerated, in light of this Court's liberal notice-pleading requirements. It has been confirmed to Defendants that Plaintiffs do not claim that SCI was their employer during the time period in which the incidents alleged in the Complaint occurred, but that SCI is alleged to be liable under a successor liability theory.

5. Plaintiffs' counsel offered to amend the Complaint to clarify Plaintiffs' position with respect to Defendant SCI in order to resolve this conflict. However, Defendants' counsel refused to consent to Plaintiffs' filing of a Second Amended Complaint, (to resolve the problems which Defendants complained of), but instead demanded the Complaint be withdrawn, or Defendants would request Rule 11 sanctions[1].

6. Defendants' counsel then claimed that Alderwods and SCI did not merge. Defendants asserted that Alderwoods and SCI are two separate and distinct corporations, and, therefore, Defendants claim that SCI is not a proper party in this action.

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[1] Plaintiffs believe that Defendants wanted Plaintiffs to withdraw their Complaint, such that when a new Complaint was filed, Defendants could then assert that the statute of limitations had expired.

7. The parties appeared before the Court on May 23, 2007, for a status conference, during which the above issues were discussed. The Court permitted Plaintiffs the opportunity to file a Motion requesting leave to file a Second Amended Complaint and also permitted Defendants to file a response thereto[2].

8. Upon information and belief, Plaintiffs aver that Alderwoods and SCI effectively merged on or about November 28, 2006, through the use of a subsidiary corporation, Coronado Acquisition Corporation ("Coronado"), created solely for the purpose of SCI's acquisition of Alderwoods. The merge of SCI's interests with that of Alderwoods has been scrutinized at length by the Federal Trade Commission. The two entities signed what has been publically referred to as "Agreement and Plan of Merger." (Exhibit 1). Public records also state that SCI acquired Alderwoods. The merger of the two entities is somewhat complicated, and without the benefit of discovery, Plaintiffs are unable to ascertain for certain the true relationship between Alderwoods, SCI and SCI's wholly owned subsidiary, Coronado.

9. SCI has already legitimately been named as a party in Plaintiffs' First Amended Complaint. In all fairness, Plaintiffs' request to amend the Complaint again, with respect to Defendant SCI, stems from Defendants' complaints about the amendment. In all fairness, the relationship between the two entities is complicated and confusing with numerous filings with the SEC. Defendants have stated that another entity, namely Coronado Acquisition Group ("Coronado"), was created to effectuate the acquisition of Alderwoods. Coronado is believed to be a wholly owned subsidiary of SCI. According to documents filed by SCI with the SEC, Alderwoods

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[2] Should the Court grant Plaintiffs' Motion, new deadlines for Responsive pleadings and responses thereto will need to be set.

and Coronado merged, and became a wholly owned subsidiary of SCI, which is now called Alderwoods (see Exhibit 1). Plaintiffs contend that this makes SCI a successor in interest to Alderwoods.

10. Upon information and belief SCI has acquired all the stock and assets of Alderwoods. It is also Plaintiffs understanding that SCI agreed to assume all of Alderwood's liabilities, based upon a review of limited documents which have been available for review. Since the merger between Alderwoods and SCI took place after the filing of this suit, and after the EEOC investigation, SCI either knew, or should have known of the action and, therefore, should have been aware that they would also be taking on responsibility for the liabilities of Alderwoods that have been alleged in the Complaint.

11. A true and correct copy of Plaintiff's proposed Second Amended Complaint is attached hereto and marked as Exhibit 2.

12. Additionally, Plaintiffs also wish to amend their Complaint to include allegations under the Pennsylvania Human Relations Act. Subsequent to the filing of the First Amended Complaint, Plaintiffs received Notices of Rights from the Pennsylvania Human Relations Commission, dated April 17, 2007. Therefore, Plaintiffs wish to amend their Complaint to include causes of action which arise under the Pennsylvania Human Relations Act ("PHRA"), of which this Court has supplement jurisdiction. See attachments to Exhibit 2.

13. No party is prejudiced by the filing of the Second Amended Complaint. Defendant SCI has already been named as a party to the action via Plaintiffs' First Amended Complaint. The Amendment with respect to SCI is to clarify Plaintiffs' position that SCI is liable under a successor

liability theory, which is being done in part to rectify Defendants' complaints with respect to the pleading. The amendment with respect to the PHRA claims is the type of amendment which is routinely granted by the Court, in light of the fact that Plaintiffs could not have included such causes of action in their Complaint until they were given the right to do so by the PHRC. Furthermore, the PHRA claim, mirrors the claims already pled under Title VII.

WHEREFORE, Plaintiffs, respectfully requests that this Court grant the instant Motion for Leave to Amend Complaint.

Respectfully submitted,

MARGOLIS EDELSTEIN

Date: 6/8/07

/s/ Liberty J. Weyandt

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